Ontario

Education Relations Commission

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To: The Members of the Legislative Assembly
Province of Ontario

ANNUAL REPORT
1983 - 84

Dear Members:

We have the honour to present the Ninth Annual Report of the Education Relations Commission, which covers the period from September 1, 1983 to August 31, 1984.

The Education Relations Commission

ISSN 0706-0092

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OVERVIEW

A variety of factors both internal and external to the Commission has influenced its activities, and the bargaining climate for the parties during the reporting year (1983-84). In particular, collective bargaining in Ontario education has been affected by three recent provincial statutes.

INFLATION RESTRAINT ACT (Bill 179)

The ***Inflation Restraint Act,*** commonly referred to as Bill 179, expired during the Commission's reporting year. However, all collective agreements were subject to the "control year" conditions of the above Act. This meant they were subject to the 5% compensation cap for the 1983-84 year and also that all agreements expired on August 31, 1984. Therefore, the Commission is faced with a record number of negotiations (229) for the 1984-85 bargaining year. This experience will be reported on in the 1984-85 Annual Report.

During the 1983-84 year, however, negotiations between the parties were almost non-existent. This in spite of the fact that, in a case involving the Durham Board of Education, the Commission decided that negotiations should continue as usual in its jurisdiction on non-compensation issues.

The Durham determination made by the Commission in 1983 (See section II of this report) flowed from conflicting views regarding the relationship of the ***School Boards and Teachers Collective Negotiations Act*** and ***the Inflation Restraint Act.*** The Commission's determination was upheld, unanimously, in the Divisional Court of the Supreme Court of Ontario in October, 1983. In May 1984 the case was argued in Court of Appeal, however, and at this time the ruling of that court has not been made public.

The main question of the jurisdictional issue was whether the provisions of the ***Inflation Restraint Act*** extended the collective agreement and, therefore, discontinued collective negotiations for the 1983-84 period. As noted, the Commission decided that the provisions of the ***Inflation Restraint Act*** did not automatically extend the collective agreement and therefore that collective bargaining on non-compensation matters should continue.

Notwithstanding the above position, the Commission did not appoint third parties after the Durham Board of Education announced that it would seek a judicial review in the Divisional Court of the Supreme Court of Ontario. The Durham Board of Education was granted leave to appeal the decision, and during the appeal, the Commission did not appoint third parties except in the case of joint requests for mediators. This time span covered most of the 1983-84 bargaining year and as a result there were few third party appointments for the bargaining year.

PUBLIC SECTOR PRICES AND COMPENSATION REVIEW ACT (BILL 111)

Negotiations for the 1984-85 bargaining year began in January and are subject to Bill 111, ***An Act to Provide for the Review of Prices and Compensation in the Public Sector and for an orderly Transition to the Resumption of full Collective Bargaining.*** Also known as the ***Public Sector Prices and Compensation Review Act, 1983,*** this legislation, was introduced on November 8, 1983, given third reading on December 13, but is deemed to have come into force on October 1, 1983. The Treasurer, when introducing this legislation stated:

> While collective bargaining will be restored, we will ensure the continuation of restraint by placing clear limits on funding for all public sector wage increases during the coming year. Our grants and transfers to municipalities, school boards, universities and other publicly-funded institutions, as well as allocations for our own civil servants, will provide for average compensation increases of up to 5 per cent for a group.

This created a totally new climate for collective bargaining in Ontario's education sector beginning in January 1984.

The return to collective negotiations after a two year hiatus and with informal limits on total compensation for 1984-85 has major implications for the length and character of the bargaining process. The Commission is of the view that bargaining in general will be long and difficult in the forthcoming round. At any rate, during the last half of the reporting year negotiations began in all but one of the approximately 230 jurisdictions covered by the ***School Boards and Teachers Collective Negotiations Act.***

BILL 127 AN ACT TO AMEND THE MUNICIPALITY OF METROPOLITAN TORONTO ACT

The Metropolitan Toronto School Board and the six boards of education within the boundaries of Metropolitan Toronto are, for the first time, also subject to ***An Act to Amend the Municipality of Metropolitan Toronto Act*** (Bill 127). This statute, passed in 1983, requires joint bargaining within the elementary and secondary panels on central table issues defined as salaries, financial benefits and the method used to determine the number of teachers employed by the Board. Negotiations with respect to local concerns are to continue to be carried out between the local boards and the individual branch affiliate. The parties in the secondary panel have been bargaining since January 1984 and at the end of our reporting year (August 1984), it is apparent that they hold diametrically opposite views as to what should be a local matter and what should be negotiated jointly at the central table.

Negotiations which are underway in the elementary panel also appear to be more difficult than usual due to an additional issue at the bargaining table which arises from the Heritage Language program introduced by the Board of Education in the City of Toronto. Thus far, the matter appears to be a highly complex and a very contentious one.

The health of negotiations in Ontario education depends to a considerable extent on the degree to which the parties in Metropolitan Toronto work out their problems at the bargaining table in good faith and on their own. This, too, will be a matter addressed in the 1984-85 Annual Report.

TRAINING (THIRD PARTIES)

Section 61(1)(e) of the Act directs the Commission "to select and where necessary train persons who may act as mediators, fact finders, arbitrators or selectors". During the reporting period the Commission held one training workshop for prospective fact finders. Participants who attended the previous year's workshop and 20 new participants, again mainly lawyers, academics and former educators attended. (For details see page 30.) In the spring of 1984 the Commission has also placed emphasis on "on-the-job training" by appointing more ***assistant*** fact finders and mediators during the 1984-85 round of negotiations. This will speed up and make more meaningful the training process.

In March 1984, prior to appointments for the 1984-85 round of negotiations, the Commission called its cadre of third parties together for an information session concerning the ***Public Sector Prices and Compensation Review Act*** (Bill 111).

WORKSHOP (GRIEVANCE MEDIATION)

Over the past year the Commission has promoted the use of grievance mediation with the parties. The Commission also hosted a workshop which was designed to outline to the parties the differences between grievance mediation and arbitration in terms of philosophy and practical application and to promote grievance mediation as an effective system of voluntary dispute resolution. The workshop attracted more than 200 participants from across the province and individuals from both sides of the bargaining table were in attendance. Following the Commission's promotion of grievance mediation there has been a significant increase in the use of this system of dispute resolution (See page 27).

The cost of grievance mediation is considerably lower than the costs of rights arbitration and grievance mediation has the additional advantage of resulting in a settlement jointly determined by the parties.

RELATIONSHIPS BY OBJECTIVES

During the reporting period Relationships By Objectives (RBO) workshops were held with the West Parry Sound Board of Education and its elementary teachers, the Atikokan Board of Education and its elementary and secondary school teachers, the Welland Roman Catholic Separate School Board and its teachers, CFB Petawawa Board of Education and its elementary teachers. The number is significant in that the parties in these situations (who must jointly request this preventive mediation program) made the effort to deal with problems associated with attitudes at a time when provincial legislation, in the short term, made it easier to ignore the issue of collective bargaining relationships (see page 22). The positive impact of this program is

illustrated by the fact that settlements have been recorded prior to the end of the school year (i.e., well before the expiration of the collective agreement) in four of the five jurisdictions which participated in the program.

PERSONNEL CHANGES

J. W. Kilgour (retirement) and Kim Shearer (resignation), Field Service Officers with the Commission since it began operating in 1975, left during the reporting year.

To fill these vacancies the Commission appointed Drena Nilsson, of Windsor and Kathryn Mullin, of Burlington as Field Service Officers.

Ms. Nilsson joins the Commission after an 18-year career as an educator — which included teaching at both the elementary and secondary levels — with the Windsor Board of Education. She holds an M.Ed. in Education Administration and a B.A. from the University of Windsor and a M.A. in German Language and Literature from the University of Waterloo. Ms. Nilsson, a past president of the Windsor Women Teachers' Association, and currently a Governor of the University of Windsor, speaks several languages, including French, fluently.

Ms. Mullin holds a M.B.A. degree from Wilfred Laurier University and a degree in Business Administration from the University of Windsor. Since 1977, she has been in personnel work with the Oxford County Board of Education and Brant County Board of Education. Ms. Mullin was a member of the Personnel and Labour Relations Committee of the Ontario Association of School Board Officials (OASBO).

V. (Bill) Piliotis, who joined the Commission in April of 1983, as Director of Field Services, returned to the Windsor Board of Education as Director of Employee Relations.

Dr. Edward M. Aim, and Mr. Craig A. Crawford, both members of the original Commission staff, were promoted. Dr. Aim, Director of Research Services for the past eight years and now Director of Field Services, holds a B.A. from Acadia and M.B.A. and Ph.D. from the University of Toronto.

Mr. Crawford, previously a Research Specialist, becomes the Director of Research Services. He holds B.A. and M.A. degrees from the University of Waterloo and also has completed the course work for a doctorate at York University. In 1979, Mr. Crawford was seconded to the Matthews Commission which investigated the problems and experiences to that date under the ***School Boards and Teachers Collective Negotiations Act.***

Dr. Stephen Hawkins, also joined the Commission during the reporting year. Dr. Hawkins is a computer expert who holds four degrees: B.Sc. (Chemical Engineering), M.A.Sc. (Chemical Engineering), M.A. (Sociology) and Ph.D. (Sociology). The acquisition of Dr. Hawkins to the Research Unit of the Commission will allow the Commission to maintain its high standard of data delivery to the parties while at the same time extending and broadening the research capabilities.

I TEACHER/SCHOOL BOARD BARGAINING IN ONTARIO — A BRIEF HISTORY

On July 18, 1975, legislation granting Ontario teachers the right to bargain collectively and the right-to-strike was enacted in Ontario. Prior to the passage of legislation, which would become known as Bill 100, the Ontario government had proposed legislation which included compulsory arbitration rather than the right-to-strike. In response to the proposed statute (Bill 275), both teacher and trustee organizations, albeit for different reasons, lobbied the Government to include the right-to-strike in the legislation. The right-to-strike became a priority for the teachers because they viewed compulsory arbitration as an ineffective form of dispute resolution. The trustees viewed compulsory arbitration as both an imposition on, and an erosion of, local board autonomy and, therefore, in conflict with the principle of representative government.

Moreover, those who drafted Bill 100 were convinced by events in the education sector as well as other jurisdictions that strike-prohibiting legislation is not always effective. In fact, it was felt that it could have the opposite effect. There was — and is — a feeling by many labour relations experts that legislation prohibiting strikes may expand or magnify employer-employee confrontation. The primary reason for proposing Bill 100 was to introduce to the province some stability and order in teacher/board bargaining, and against this background the right-to-strike was included in the legislation.

The need for legislation regarding teacher-board negotiations was obvious in the early 70's. Teachers were demanding the right to collectively bargain such issues as working conditions, grievance procedures, and financial matters. Some trustees viewed the collective bargaining process as an infringement of management rights. The net result, in the absence of legislation, was that bargaining took place in a vacuum and that relationships between trustees and teachers were deteriorating both on an individual and organizational basis.

The School Boards and Teachers Collective Negotiations Act, 1975, brought order to this confusion by providing ground rules for collective bargaining. Although the most publicized feature of the Act was the right-to-strike, realistic alternatives such as voluntary arbitration or final offer selection were provided at each step in the bargaining process. Events leading to a legal strike or lock-out under the Act were regulated. For example, a strike or lock-out under the Act is not legal until:

a) A fact finder has met with the parties and his/her report has been made public; and

b) A 30-day cooling-off period takes place after the fact finder's report is submitted to the parties; and

c) The teachers have voted — by secret ballot in a supervised vote — on the last offer of the school board; and

d) The teachers have voted — by secret ballot in a supervised vote — to take strike action.

Other features of the Act were also significant. Negotiations take place at the county board level between the local teachers' federation(s) and the school board. There are separate negotiations in the elementary and secondary panels of each board. The scope of negotiations is open, i.e., all matters are negotiable. Each collective agreement is deemed to contain a procedure for binding settlement of disputes arising out of administration of the agreement if such a procedure has not been negotiated locally, and a strike or a lock-out is illegal during the term of the collective agreement.

Finally, the Act provided for a five-person commission — The Education Relations Commission — to monitor and assist all local negotiations between teachers and school boards and to administer the Act. The Commission was given seven specific functions under Section 60 of the Act which are outlined below.

1. Monitoring all negotiations;

2. Collecting and providing data to all parties in collective negotiations;

3. Assisting the parties in their collective negotiations;

4. Training third party neutrals;

5. Adjudicating good faith bargaining charges;

6. Supervising last-offer, strike and ratification votes;

7. Advising the Lieutenant Governor in Council concerning jeopardy to students' courses of study in the event of a strike and/or lock-out.

Four years after the passage of Bill 100, the Minister of Education announced in the Legislature the establishment of a Commission to review the collective negotiations process between teachers and school boards. This Commission — referred to as the Matthews Commission — chaired by Dr. B.C. Matthews, then President of the University of Waterloo, submitted its report to the Minister of Education, in June of 1980. Based on the experience during the first five years of Bill 100, the Matthews Commission proposed a small but nevertheless significant set of recommendations to change the Act.

Redundant sections of the Act were removed in 1981 during a review of legislation by the Provincial Government. As well, the name of the Act was changed to the ***School Boards and Teachers Collective Negotiations Act, Revised Statutes of Ontario, 1980, Chapter 464.***

II INFLATION RESTRAINT ACT

Teacher-Board negotiations were significantly altered when ***An Act respecting the Restraint of Compensation in the Public Sector of Ontario and Monitoring of Inflationary Conditions in the Economy of the Province*** (Bill 179) was introduced. Briefly, Bill 179, introduced in the Legislature on September 21, 1982, limited compensation increases in the public sector to up to 9 per cent in the first year of the program (the "transitional" year) and 5 per cent in the second year (the "control" year). The legislation removed the right to strike or lock-out and also provided for the formation of the Inflation Restraint Board (IRB) to administer the Act, and to monitor wage and price increases in the public and private sectors.

The introduction of Bill 179 had an immediate effect on the progress of teacher/board negotiations. In almost every instance across the province, negotiations were stalled as the parties assessed the implications of the proposed legislation. During the three month period from the time the Bill was introduced until it was proclaimed the bargaining atmosphere was adversely affected as uncertainty about the implications increased. This uncertainty persisted as bargaining slowly resumed.

In this regard, the significant sections of the Act are as follows:

Section 13: which extends the terms and conditions of the collective agreement;

Section 14: which allows the parties to a collective agreement to apply to the IRB with respect to certain disputed matters;

Section 15: which states that parties to a collective agreement which includes a compensation plan that is extended under Section II may, by agreement, amend the terms and conditions. . .other than compensation rates, . .

In many jurisdictions negotiations proceeded normally within the constraints imposed by the provisions of Bill 179. Collective agreements were signed which reflected the 9% ceiling on increases to the grid. In others, negotiations ceased as Boards took the position that section 13 of the legislation extended the collective agreement thus removing the obligation to bargain. This issue ultimately was placed before the Commission in the form of an application by the secondary school teachers employed by the Durham County Board of Education for a determination with respect to good faith bargaining.

Counsel for the Board filed papers with the Commission prior to the hearing challenging the jurisdiction of the Commission to hear this matter, Counsel for the teachers (O.S.S.T.F., District 17) took an opposing view. As a result, the fundamental issue was the effect of the ***Inflation Restraint Act*** on the Commission's jurisdiction and duties. A hearing was held and a determination on the issue of jurisdiction was made.

In its decision the Commission determined that the ***Inflation Restraint Act*** must be viewed as a consistent whole and that its various provisions, particularly sections 13, 14 and 15 must be logically reconciled. This exercise led the Commission to the opinion that the intent of the ***Inflation Restraint Act*** was to restrain wages in the public sector within certain limits, and to prohibit sanctions but to allow a continuation of normal labour-management negotiations on non-monetary matters. Therefore, the Commission determined:

> ...it is our opinion that the ***Inflation Restraint Act*** does not terminate the statutory duties imposed on the Commission under Section 60(1)(f) of the ***School Boards and Teachers Collective Negotiations Act.***

The determination was appealed by the Durham Board of Education to the Supreme Court of Ontario for judicial review. On October 24, 1983 the Divisional Court of the Supreme Court of Ontario unanimously dismissed the application of the Durham Board of Education.

On November 14, 1983 in the Court of Appeal the Durham Board of Education applied for and was granted leave to appeal this decision. The case was heard in May 1984 but the decision has not been released within the 1983-84 reporting year.

The dynamics of teacher-board bargaining were further changed with the introduction of ***An Act to Provide for the Review of Prices and Compensation in the Public Sector and for an Orderly Transition of the Resumption of Full Collective Bargaining*** (Bill 111). The Act provides for the return to normal forms of dispute resolution but at the same time changes the parameters of collective bargaining. The Treasurer, in introducing the legislation, indicated the province would limit funding for all public sector compensation increases to provide an average increase of 5 percent. Criteria for increases referred to in the Act were published in ***The Ontario Gazette*** and range from zero to five percent. This, plus the Treasurer's statement concerning the 5 percent increase in transfer payments, indicates the narrow financial boundaries available to the parties in public sector negotiations for the 1984-85 bargaining year.

The ***Inflation Restraint Board*** established under the ***inflation Restraint Act*** in 1982, had its mandate extended and its duties changed somewhat under the new act. The Board no longer has the power to roll back settlements. However, it does have the duty to assess changes in public sector settlements and report its findings to the Treasurer.

III THE COMMISSION — MEMBERS AND ORGANIZATION STRUCTURE

The Education Relations Commission is composed of five members appointed by the Lieutenant Governor in Council. The term of appointment may range from one to three years and each member of the Commission is eligible for reappointment upon the expiration of the term. Dr. Bryan Downie was first appointed Chairman of the Commission on November 1, 1979 and was reappointed for a second term on October 31, 1982. T. Gary O'Neill was appointed Vice-Chairman on December 22, 1982. Louise D. Binder was appointed a Commissioner in February of 1983, Donald S. Felker in February of 1983 and Harvey H. Nightingale in October of 1982. A biographical sketch of each of the Commissioners is contained on pages 12 & 13.

The Commission has a permanent staff of 16 individuals. In order to oversee bargaining in the more than 230 sets of negotiations which fall under its jurisdiction, the Commission must rely on external human resources. Therefore, in addition to its permanent staff, the Commission utilizes a cadre of more than seventy individuals who are appointed on a contractual basis as third party neutrals. This arrangement has allowed the Commission to attract and continue to appoint some of the most able third parties in the province.

All appointments and all major decisions and determinations are made by the Commission per se. The day-to-day operations of the Commission, however, are managed by a Chief Executive Officer. The operations of the ERC are divided into two major functions — Field Services and Research Services. (An organizational chart is provided on page 15.) Briefly, Field Services monitors negotiation activity at the local level, while Research Services provides data to all parties in negotiations.

The small size and the vast experience of its permanent staff, combined with the high calibre of its part-time people, has allowed the Commission to quickly and effectively respond to the needs of the parties and the public.

MEMBERS OF THE COMMISSION

Chairman —
BRYAN M. DOWNIE, B.A. (Concordia, Minnesota), M.B.A. (University of Chicago), Ph.D. (University of Chicago).

Dr. Downie, (Professor, Industrial Relations and Public Policy, Queen's University) has served as a fact finder, mediator, and interest arbitrator. He has published extensively in the area of labour relations and his book, ***Collective Bargaining and Conflict Resolution in Education*** examines the activities and policies of the Education Relations Commission during its formative years. He is Canadian Director and a Board member of the Society of Professionals in Dispute Resolution, an association of third party neutrals based in Washington, D.C. and is currently President of the Canadian Industrial Relations Association and a member of the Board of Directors of the Social Science Federation of Canada.

Vice-Chairman —
T. GARY O'NEILL, B.A. Sc. (University of Toronto), M.Eng. (Carleton), LL.B. (University of Ottawa)

Mr. O'Neill is a member of an Ottawa law firm who is knowledgeable in both dispute resolution and the issues in the education sector of Ontario. Since 1977, Mr. O'Neill has served as a third-party on numerous occasions.

Commissioner —
HARVEY M. NIGHTINGALE, B.A. (University of Western Ontario), M.Ed. (University of Toronto), M.A. (York University).

Mr. Nightingale served as Director of Economic and Legislative Services for the Ontario Trustees' Council from 1973 to 1981. In this position he was responsible for both developing and articulating the trustees' position on various educational issues, including collective bargaining and the ***School Boards and Teachers Collective Negotiations Act.***

Mr. Nightingale is Executive Director of the Ontario Nursing Home Association.

Commissioner —
LOUISE D. BINDER, B.A. (University of Toronto), LL.B. (Queen's University).

Miss Binder is Co-ordinator of Labour Relations with Gulf Canada Products Limited. Following graduation from law school she practised labour law for management with a Toronto law firm. Since 1977, she has been in private sector Employee Relations.

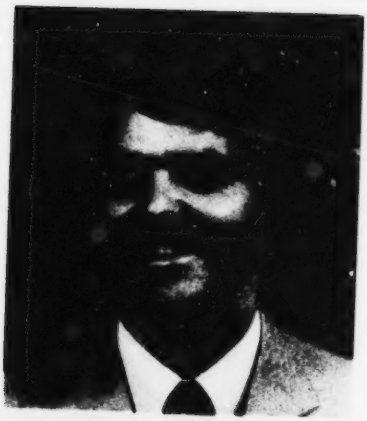
Miss Binder is also a member of the Ontario Public Service Labour Relations Tribunal.

Commissioner —
DONALD S. FELKER, B.A. (University of Ottawa), M.Ed. (University of Toronto) Ed.D. (University of Pennsylvania).

Dr. Felker, a self-employed educational consultant, has served as an appointee in both grievance and arbitration boards. He spent thirteen years in the Ontario Public School System as a Teacher, Vice-Principal and Principal and from 1968 to 1973, he served as General Secretary for the Ontario Secondary School Teachers' Federation and is a Life Member of the Ontario Secondary School Teachers' Federation.

SENIOR STAFF OF THE COMMISSION

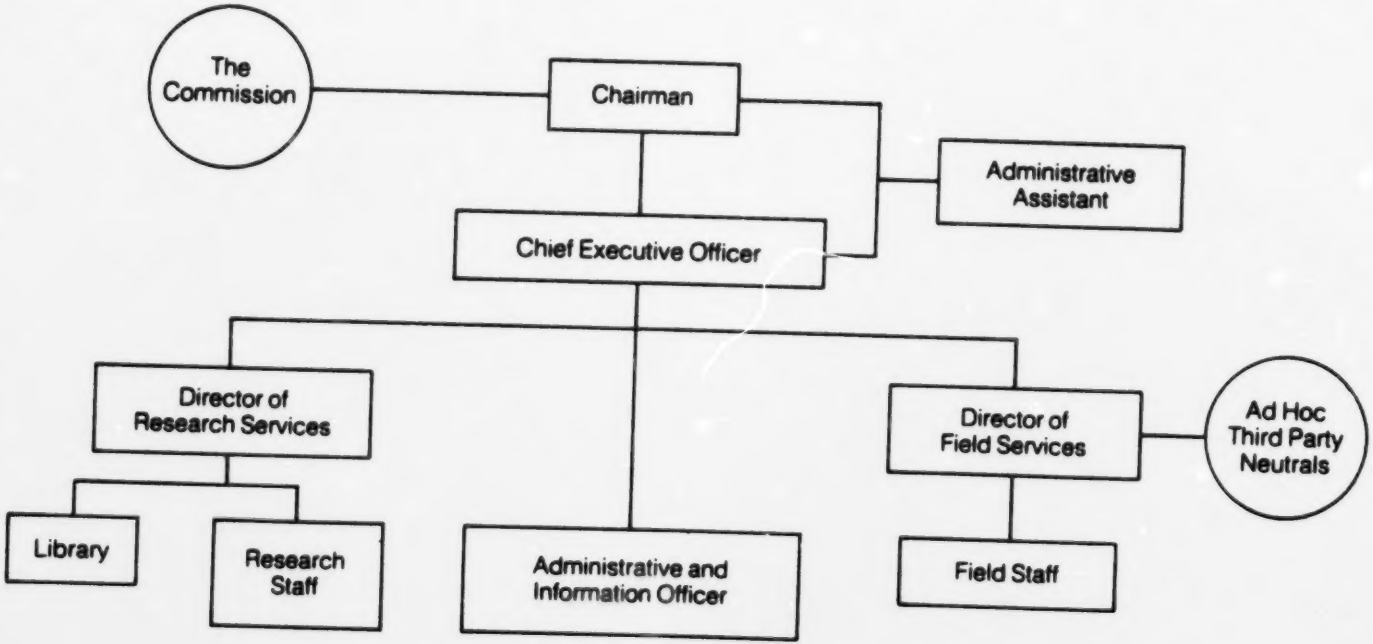
ROBERT H. FIELD
Chief Executive Officer



CRAIG A. CRAWFORD
Director of Research Services

EDWARD M. AIM
Director of Field Services

Organization Chart: The Education Relations Commission



IV STAFF ACTIVITIES

1. Field Services

(a) Liaison Activities

The Commission maintains its awareness of negotiations between teachers and school boards through its Field Services staff. The two Field Officers under the direction and supervision of the Director of Field Services are responsible for monitoring the negotiations in all jurisdictions in the Province. This regular contact, by both on-site visits and phone (see Table 1) enables the individual Field Service Officers to gain an understanding of emerging issues in negotiations and to become thoroughly familiar with the parties and important developments at the local level. In turn, the parties become better acquainted with the Commission's representatives and more knowledgeable about the Act and the Commission's policies, procedures and resources. Through this exchange, progress reports are gathered and procedures and requirements under the Act are clarified.

Maintaining an intimate awareness of negotiations between branch affiliates* and school boards is particularly advantageous when appointments of third party neutrals by the Commission become necessary. In making judgments regarding the appropriateness or timing of an appointment and/or the individual to be named as mediator or fact finder in any given area, the Commission has been able to rely on the first-hand information and advice of its Field Services staff.

In the 1980-81 year, Field Services introduced a greater degree of ***planning*** into the appointment process, and this has been continued and refined during the reporting year. Field Services Staff now formally analyse all upcoming sets of negotiations early in the negotiation year. The analyses include an assessment of the probable degree of difficulty of each situation and the identification of possible troublesome issues and potential barriers or stumbling blocks to settlement. Their analyses also include recommendations on the style, timing and type of third party assistance appropriate to each situation. This material is summarized and evaluated against past historical developments in the particular teacher/school board relationship. Through this system, more effective and economical appointments have emerged. Moreover, more informed decisions concerning third party appointments have resulted.

*A branch affiliate is composed of all the teachers employed by a board who are members of one of the Provincial teachers' federations or associations. A branch affiliate is comparable to a local union.

In an effort to enhance the quality of liaison activities, a three-year plan for field visit activities is being formulated.

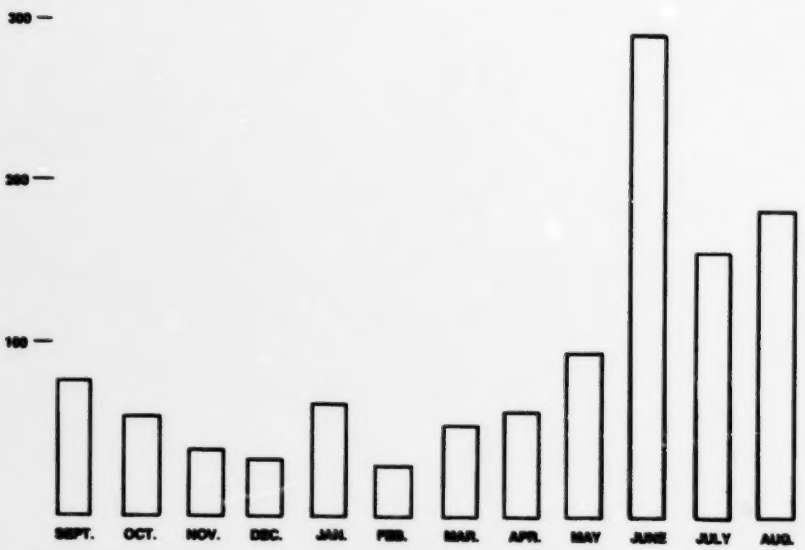
In the liaison activities, emphasis is placed on the Field Service Officers establishing a high profile with the parties and on strengthening the relations between the field officers and the branch affiliates and school boards in order to enable the Commission to provide the best possible service to the parties in their negotiations and teacher-board relations.

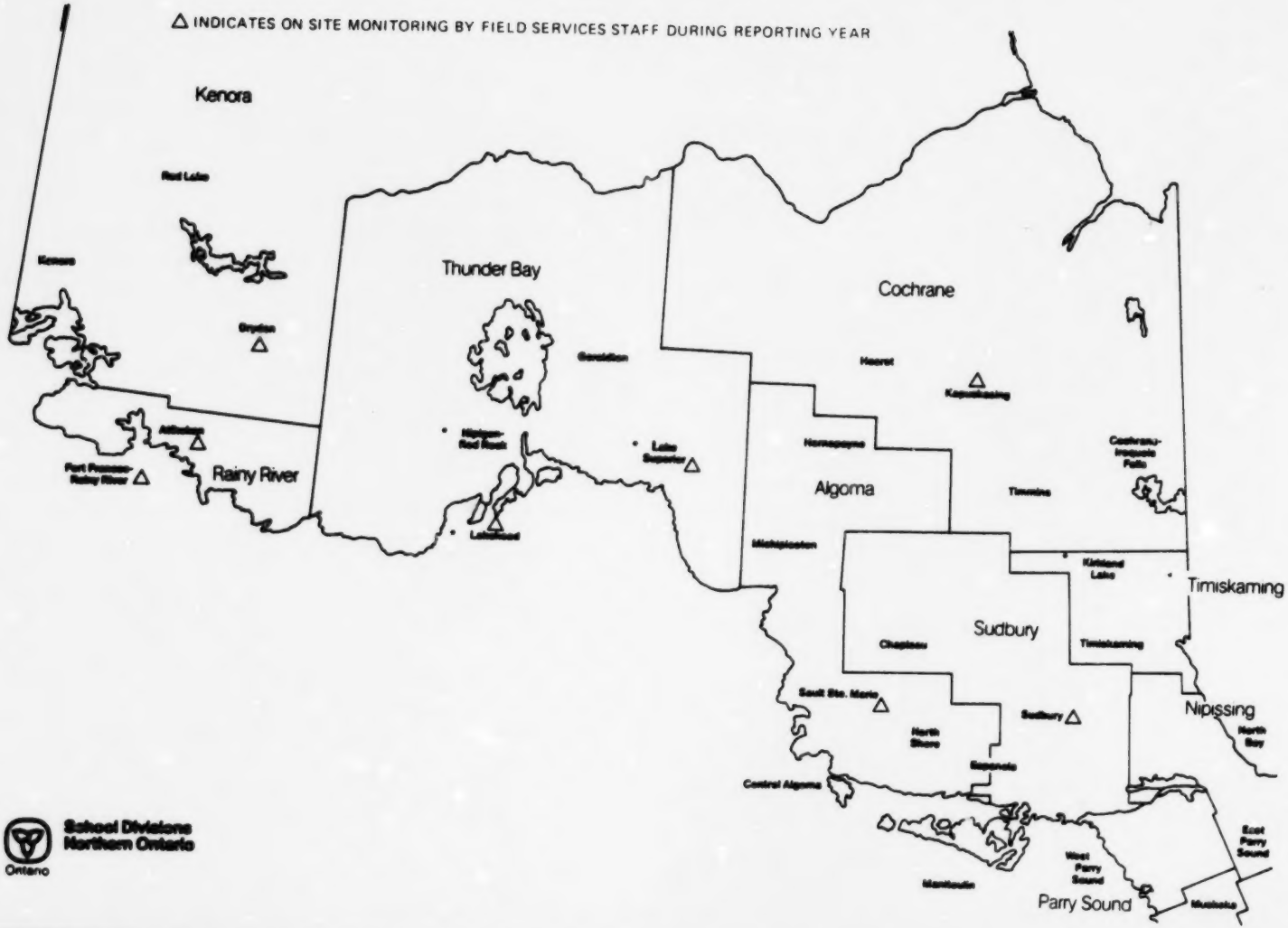
Field Services staff members no longer undertake mediation assignments. As recently as four years ago, staff members were assigned occasional mediation tasks for the Commission when such appointments seemed suitable and desirable. A decision was made by the Commission in 1980 to discontinue this practice. The Commission felt, and continues to feel, that direct involvement in negotiations by its staff would jeopardize the monitoring function of Field Services and the neutrality of the Commission. As a consequence, all formal mediation is now undertaken by ***ad hoc*** third party neutrals. The Commission has developed a highly qualified, competent and totally professional group of third party neutrals upon which it can draw.

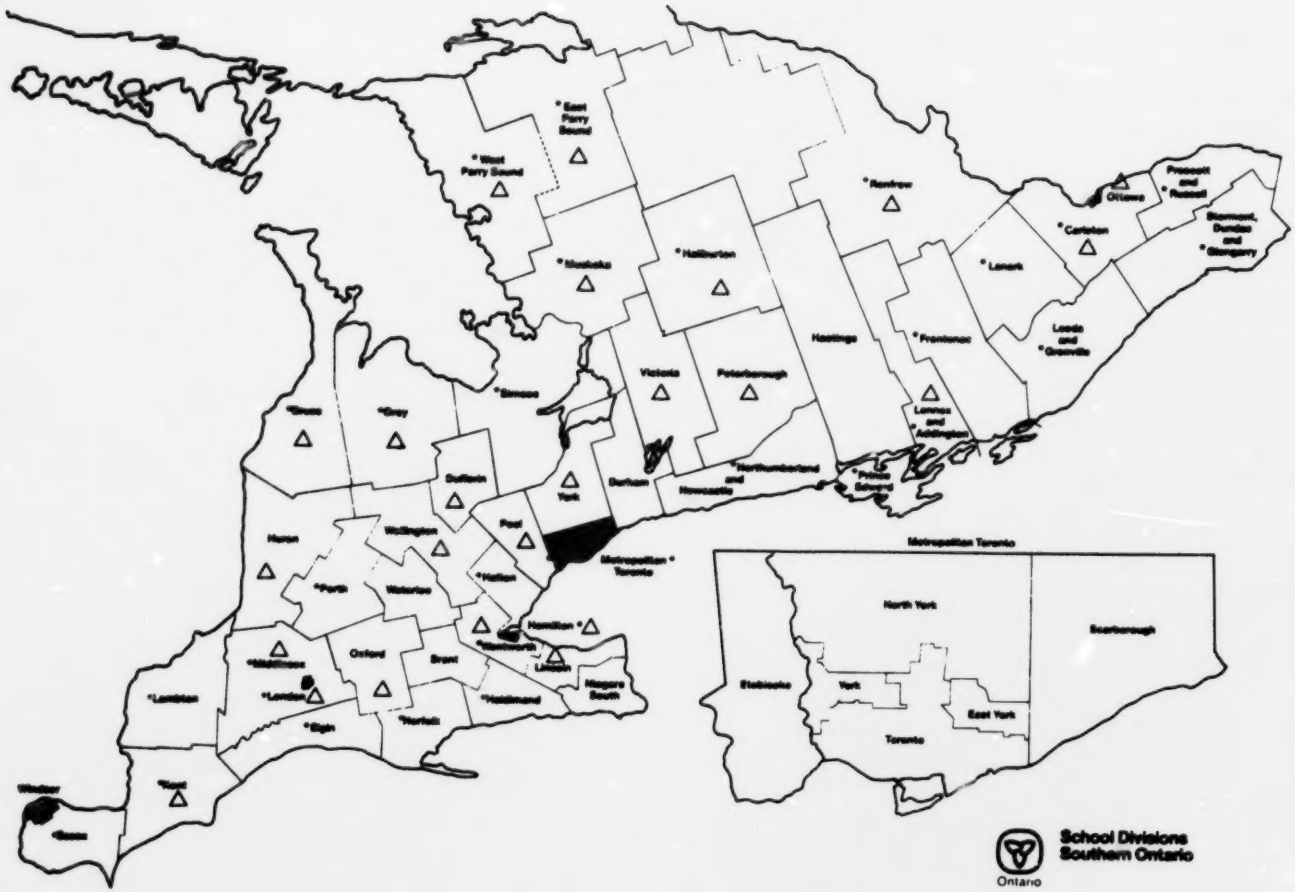
In addition to the monitoring and appointment process, Field Services staff members are intensively involved in both the planning and production of all of the Commission's workshops and ***Preventive Mediation*** projects (see section (b)(i) below). They are responsible, as well, for the selection, training, evaluation, and professional development of the Commission's neutrals.

Table 1

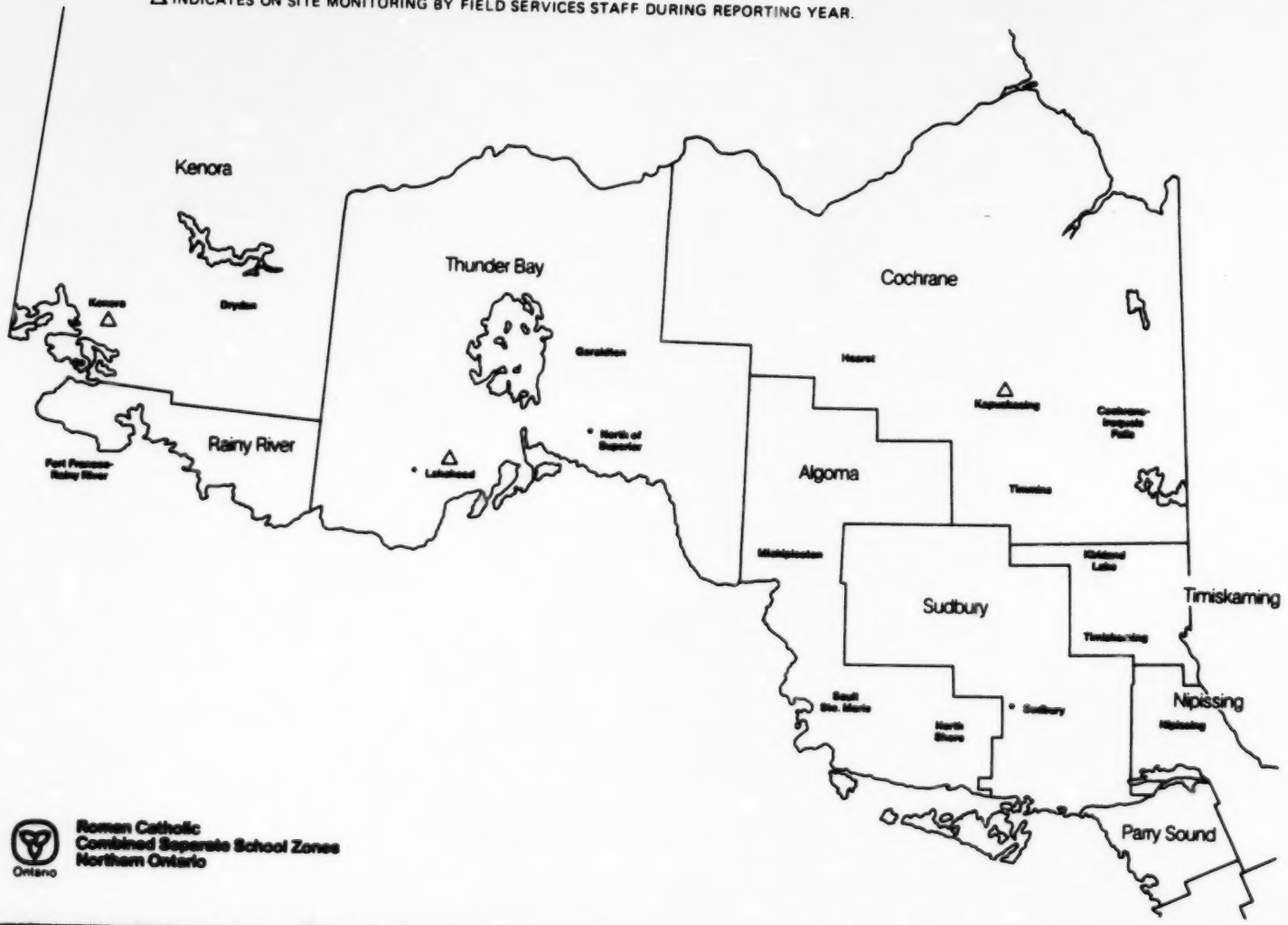
TELEPHONE CALLS IN-COMING AND OUT-GOING
FIELD SERVICE MONITORING




△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR
Kenora
Thunder Bay
Cochrane
Rainy River
Algoma
Sudbury
Timiskaming
Nipissing
Parry Sound
School Divisions
Northern Ontario
Ontario


Metropolitan Toronto
North York
Scarborough
Etobicoke
York
East York
Toronto
Ontario
School Divisions
Southern Ontario

△ INDICATES ON SITE MONITORING BY FIELD SERVICES STAFF DURING REPORTING YEAR.



Roman Catholic
Combined Separate School Zones
Northern Ontario

Ontario
Roman Catholic
Separate School Zones
Southern Ontario

(b) Preventive Mediation Programs

(i) Relationships By Objectives and Other Initiatives

This program is administered by the Field Services unit. Its main purpose is to assist the parties in reducing, if not eliminating, the obstacles which prevent the parties from resolving matters of mutual concern. In addition the program attempts to equip the parties with tools which enable them to conduct their negotiations in a more effective and efficient manner within the existing structure of collective bargaining. It must be stressed that the program is not designed to change the present structure of collective bargaining. However, it is designed to enhance it and to make it work for the benefit of both parties. In contrast to conventional mediation, Preventive Mediation is normally conducted outside negotiations.

It should be stressed that Preventive Mediation is offered only after ***both*** parties in a jurisdiction request ERC involvement.

Although experimentation with Preventive Mediation began as early as 1979-80, an official program was not established until 1980-81. The Commission has now conducted a total of 30 such programs over the last four years involving fifteen jurisdictions.

Although Preventive Mediation is a flexible, individually-tailored program, most parties have requested programs which emphasize relationships by objectives (R.B.O.). Workshops have been conducted both separately and jointly with groups of trustees, administrators, and teachers. All of the Preventive Mediation programs appear to have been successful as judged by follow-up monitoring of the parties' relationships, and their subsequent bargaining experiences.

The R.B.O. programme which involves two numerically equal groups of teachers and trustee/administrators includes six steps.

I Identification of the issues as seen by each side.

II Explanation of issues and rationale by each side to the other.

III Agreement on a list of objectives based on the issues.

IV Creation of action steps to meet these objectives by groups composed of an equal number of members from each party.

V Acceptance and/or tailoring of these action steps by teacher and trustee groups separately.

VI Acceptance of action steps, assigning responsibility and setting time lines by whole group.

This programme was originally developed to take place over three days in a residential setting. The Commission, in meeting the needs of the parties has altered this design to:

1) Accommodate the problems encountered in attempting to free key trustees, teachers and administrators for a three-day period during the school year.

2) Shorten the programme from three days to two.

To achieve this, the first step in the process is held prior to the residential portion of the workshop. Also, using the information given by the parties in this first session, the Commission staff prepares a list of objectives which the parties accept and/or tailor in Step III. In this way the programme can begin with Step II on Friday evening and finish the sixth Step by noon on Sunday.

The design of the programme allows the participants to develop a separate statement of the issues in the school system. Then the parties work towards joint objectives followed by joint action steps to overcome these issues.

This structure, in combination with the time away from the pressures of the system, facilitates the opening of new communication links and channels as well as the clearing of inappropriate and inaccurate perceptions which lurk in every large organization.

The Commission, in offering this programme, to school boards throughout Ontario, insists that two criteria be met.

1. Both parties indicate that they desire to participate in the programme.

2. The programme will not be offered in any jurisdiction where negotiations are in progress.

During the reporting year the Education Relations Commission conducted five R.B.O.'s in the following jurisdictions:

1. Atikokan Elementary
2. Atikokan Secondary
3. West Parry Sound Elementary
4. Welland R.C.S.S.
5. Petawawa C.F.B. Elementary

The criteria for evaluation will vary from situation to situation depending on the original problems and the extent to which the objectives have been met over the long term.

It can be expected however that a successful R.B.O. will result in improved relations between the parties creating a better climate for negotiations. Though it is important to evaluate the effectiveness of any programme implemented to assist the parties, in the end it will be the parties themselves who will be best able to assess the workshop's effectiveness.

In Atikokan, the Board and both its elementary and secondary teachers reached early settlements. In a letter to the Minister of Education, the Chairman of the Board clearly gave credit to Relationships by Objectives Programme for their successful negotiations due to considerably improved relationships between the parties.

In West Parry Sound the Board and its elementary school teachers have also settled their collective agreement for 1984/85.

As well, a settlement was reached with the Welland R.C.S.S. Board and its teachers shortly after taking part in an R.B.O. workshop.

In Petawawa C.F.B. negotiations have been moving along well. The relationship between the parties is good although a tentative agreement has not yet been reached.

HISTORY OF PREVENTIVE MEDIATION

DATE	JURISDICTION	PARTIES	FACILITATORS	NATURE OF PREVENTIVE MEDIATION
1979	Essex RCSS Bd.	Trustees, Administrators, Teachers	Dr. David Tough	Five meetings to set up ground rules for negotiations.
1979	Essex RCSS Bd.	Trustees, Administrators, Teachers	Bill McCordic	Assisted in developing a staffing formula for September 1980.
1979	Perth County Bd.	Trustees, Administrators, Secondary Teachers	Dr. David Tough	Chaired a committee of trustees, administrators and teachers on staffing and time-tabling in the secondary schools.
1979	Haldimand Bd. of Education	Trustees, Administrators, Secondary Teachers	Sam McKeown	Weekend workshop of Relationships by Objectives
Jan.-Feb., 1980	Wellington County Bd. of Education	Trustees, Administrators, Secondary Teachers	Kim Shearer	Facilitate cooperative bargaining process — 4 sessions totalling 67 hours.
May 1980	Halton Bd. of Education	Trustees and Administrators	Sam McKeown	Day and one-half workshop on Relationships by Objectives
June 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Kim Shearer	Three-day workshop on alternative methods of bargaining; representatives from 6 boards were brought together to discuss pros and cons of various methods.
June 1980	Haldimand Bd. of Education	Trustees, Administrators, Teachers	Sam McKeown	One-day workshop on communications.
Oct. 1980	Lennox & Add. County Bd. of Education	Trustees and Administrators	Sam McKeown	Day and one-half workshop on Relationships by Objectives.
Dec. 1980	East Parry Sound Bd. of Education	Trustees, Administrators Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres Craig Crawford	Three-day workshop on Communication Skills.
Dec. 1980	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres	Three-day workshop on Problem Solving Skills.
Jan. 1981	East Parry Sound Bd. of Edcustion	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Shearer Sam McKeown Eric Runacres Craig Crawford	Three-day workshop on Contract Management.
Mar. 1981	Lambton County Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Kim Shearer Paul Doucette	Two-day workshop on Relationships by Objectives.

Oct. 1981	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers, CUPE	Kim Sheerer Eric Runacres Jim Breckenridge	Two-day Evaluation workshop
Apr. -May 1981	London Bd. of Education	Administrators	Sam McKeown	Planning new approaches to administration in the 80's (Two one-day sessions).
June 1981	Haldimand Bd. Education	Trustees, Administrators, Teachers	Sam McKeown	One-day workshop on Communication Skills.
Feb. 1982	East Parry Sound Bd. of Education	Administrators, Elementary and Secondary Teachers	Eric Runacres	One-day workshop to review communication, problem-solving and conflict management skills, establish future goals; develop action steps.
Mar. 1982	Essex RCSS Bd. of Education	Trustees, Administrators, Teachers (OPSTF FWTAO, AEFO)	Eric Runacres	Two-day workshop on communication, problem-solving and conflict management skills.
Apr. 1982	East Parry Sound Bd. of Education	Administrators, Principals of all Elementary and Secondary schools, selected department heads from the Secondary school, and consultants who serve the system	Eric Runacres Don Musella	Three-day workshop of Leadership skill development in communications, problem-solving, decision-making and ways to handle conflict.
June 1982	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Craig Crawford Jim McLachlin	Evening session to introduce new trustees and teachers to technical assistance programme.
June 1982	Timiskaming Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Sam McKeown Kim Sheerer	Day and one-half workshop on Relationships by Objectives.
Nov. 1982	Lincoln Bd. of Education	Trustees and Administrators	Sam McKeown	Two-day workshop on Relationships by Objectives, familiarize new trustees with the school system operation.
Feb. 1983	East Parry Sound Bd. of Education	Internal facilitators 1 Trustee, 5 Elementary teachers 1 Secondary teacher	Kim Sheerer	Three-day workshop to develop internal facilitators.
Feb. 1983	East Parry Sound Bd. of Education	Trustees, Administrators, Elementary and Secondary Teachers	Kim Sheerer Craig Crawford	Three-day workshop on communications, problem-solving conflict management, group development, and relationship focusing.
May 1983	East Parry Sound Bd. of Education	Internal facilitators 1 Trustee 5 Elementary Teachers 1 Secondary Teacher 3 ERC Staff	Kim Sheerer Jim Breckenridge	Learning reinforcement for internal facilitators.

(II) Grievance Mediation

This program is designed to assist the parties in resolving differences between them which arise from the interpretation, application, administration or alleged contravention of the collective agreement. The use of this procedure does not preclude the parties from proceeding to arbitration if the matter is not resolved through mediation.

One purpose of grievance mediation is to alleviate the build up of negative attitudes which develop within a system because of unresolved grievances. Such grievances often become issues in negotiations. Moreover, grievance mediation is a method of solving disputes as close to the source and as quickly as possible. Lastly, grievance mediation is much less expensive than arbitration.

The Commission began to experiment with grievance mediation in 1979-80. Meetings were held with the provincial teacher federations and trustees associations to introduce the concept, and explain some of its advantages.

A training session for grievance mediators was held in 1980-81. Eight mediators from across the province attended a two-day workshop which was designed to acquaint them with the arbitral jurisprudence developing in Ontario education and with the unique aspects of the grievance mediation process. The purpose was to develop a group of experts from which the Commission can appoint as the need arises.

In February 1984, the Commission hosted a workshop on grievance mediation. Originally designed for forty participants, the aim of the workshop was to explain the techniques and procedures involved in Grievance Mediation and compare this process in terms of cost, philosophy and practical aspect to Grievance Arbitration. Over 200 people attended the workshop. Those attending covered the full spectrum of the education sector — teachers, trustees, administrators and board's legal counsel.

From the Commission's point of view, the number of people attending the workshop and the number of grievance mediation appointments during the year indicated some change of attitude toward the grievance process by the parties. During the reporting year, 14 grievance mediators were appointed, compared to five for the previous three years.

GRIEVANCE MEDIATION APPOINTMENTS, 1979-84

DATE	PARTIES	GRIEVANCE MEDIATOR	NATURE OF ASSISTANCE
June, 1980	Provincial Schools Authority and Federation of Provincial Schools Authority Teachers	Maureen Saultman	Issue Resolved
June, 1981	Nipissing Board of Education and the Branch Affiliates of F.W.T.A.O. and O.P.S.T.F.	Graeme H. McKechnie	Issue Resolved
March, 1982	Central Algoma Board of Education and the Branch Affiliate of O.S.S.T.F.	Malcolm Stockton	Issue Resolved
May, 1982	Northumberland and Newcastle Board of Education and the Branch Affiliates of F.W.T.A.O. and O.P.S.T.F.	Malcolm Stockton	No Resolution; Issue went to Arbitration
May, 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of the O.S.S.T.F.	David Moore	Issue Resolved
Sept., 1983	York Region R.C.S.S. Board and the Branch Affiliate of OECTA	Graeme H. McKechnie	No Resolution; Issue went to Arbitration
Sept., 1983	Victoria Board of Education and the Branch Affiliate of OSSTF	Maureen Saltman	Issue Resolved; Rejected Dec. 8; Issue went to Arbitration
Sept., 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of AEFO	Michel Picher; assisted by Helen Finley	Issue Resolved; but Rejected by Board October 3, 1984

Oct., 1983	Cochrane-Iroquois Falls Board of Education and the Branch Affiliate of OSSTF	Frank A. Addario	Seven Grievances Issues Resolved
Dec., 1983	Haldimand Board of Education and the Branch Affiliate of OSSTF	Tom Bastedo	Two Grievances, one Resolved, one to Arbitration
Dec., 1983	Essex County RCSS Board and the Branch Affiliate of OECTA	Graeme H. McKechnie	Issue Resolved
Jan., 1984	Halton Board of Education and the Branch Affiliate of OSSTF	Dr. Bill Marcotte	No Resolution; Issue to Arbitration
Jan., 1984	Peel Board of Education and the Branch Affiliate of OSSTF	David Moore	No Resolution
Jan., 1984	CFB Petawawa Board of Education and the Branch Affiliates of FWTAO and OPSTF	Dr. Bill Marcotte	Resolved
April, 1984	Sault Ste. Marie Board of Education and the Branch Affiliate of OSSTF	Dr. Harold Jakes	Issue Resolved; Rejected by Board
April, 1984	Kapuskasing Board of Education and the Branch Affiliate of AEFO	Norman Bernstein	Issued Resolved
June, 1984	North York Board of Education and the Branch Affiliates of FWTAO and OPSTF	Maureen Saltman	Agreement to hold Issue in Abeyance
June, 1984	Red Lake Board of Education and the Branch Affiliate of the OSSTF	Paul Piche	Issue Resolved; Rejected by Board
June, 1984	Northumberland and Newcastle Board of Education and the Branch Affiliate of the OSSTF	Maureen Saltman	No Resolution; Issue to Arbitration

(c) Selection and Training of Third Parties

Section 60(1)(e) of the Act directs the Commission "to select and where necessary, to train persons who may act as mediators, fact finders, arbitrators, and selectors."

(i) Selection

The Commission selects persons from a list of qualified fact finders and mediators to assist in collective negotiations as required. Its roster includes men and women from a variety of occupations including labour/management arbitrators, labour lawyers, academics and former educational administrators and teachers. Each year, the Commission continues to recruit a number of third parties who are bilingual.

Today, individuals who are utilized by the Commission not only must bring strong qualifications to the ERC but also must participate in the Commission's training programs. As well, the Commission now evaluates its third parties and only those individuals whose performance is superior continue to be appointed. The Commission continues to seek individuals whose background, experience and understanding of collective bargaining in education renders them eligible to provide the kind of third party assistance required by the ERC.

(ii) Training

Only one training session was held during the reporting year. Twenty participants from the 1982-83 fact finder's workshop (who were unable to gain any experience because of the lack of appointments during the "control" year of the ***Inflation Restraint Act*** and the progress of the Durham Determination through the courts) along with twenty new prospective fact finders attended this workshop. This year, an added feature was a simulation of a fact finding hearing, using data from one of the jurisdictions and using experienced third parties as trustees, teachers, administrators and the fact finder. Each participant was given a mock fact finding appointment and instructed to produce a report written within the time frame required in the Act (30 days). These reports will be evaluated and future assignments for these participants will be based on these evaluations.

The Commission continued to recruit new individuals with high qualifications from a variety of backgrounds. The majority has been trained in law, three were formerly trustees or administrators, two were former teachers, and one specializes in industrial relations.

Bill 111 Workshop

The Commission arranged an information session for its third parties in March 1984. Featured at this workshop was Mr. Ross Peebles, Executive Director of the Inflation Restraint Board. He explained the Act, the reporting requirements for fact finders, and the ability to pay concept, as outlined in the Act. Bob Bass, a management consultant, and formerly a statistician/researcher with the Metropolitan Toronto Board of Education, discussed the costing implications under Bill 111. At the beginning of the workshop, it was explained to the Commission's third parties that the material being presented was for information purposes only.

2. Research Services

Research Services gather and provide information to assist all parties in negotiations through numerous publications on salaries and other negotiation issues, and by responding to requests for data (see Table 2). Research Officers also undertake a broad variety of research tasks for the Commission.

(a) Information

The basic resource for the Commission's information base is the collective agreement. Approximately 200 agreements are analysed each year by Research Services' staff. (The number of collective agreements ***negotiated*** annually varies with the number of multi-year agreements.) Information related to salaries, benefits and working conditions is extracted from these agreements and placed in a computerized data bank. During the 1983-84 year, Research Services processed more than 1,100 requests for information.

In cooperation with the Ministry of Education, the Commission continued to receive information regarding school board expenditures for a variety of allowances and benefits which are provided to teaching staff, as well as enrolment and staffing data. These are available to the parties upon request.

The Commission's reference library contains a copy of all collective agreements, public fact finding reports, arbitration awards, final offer selection awards, and ERC determinations. The library may be used by interested individuals.

Table 2 Number of Requests for Information by Month and Party, 1983-84

	Local Teacher	Local Board	ERC Appointee	Provincial Teacher	Provincial Trustee	Media	Other	Total
1983								
Sept.	2	7	-	4	1	-	9	23
Oct.	6	11	-	2	2	-	13	34
Nov.	2	11	-	5	1	-	7	26
Dec.	5	8	-	2	-	-	5	20
1984								
Jan.	4	10	-	2	-	-	6	22
Feb.	3	10	-	6	2	-	10	31
Mar.	9	8	1	4	-	-	9	31
April	8	12	2	4	-	-	12	38
May	2	8	6	4	1	-	13	34
June	3	15	10	3	-	-	23	54
July	9	25	6	1	1	-		
Aug.	3	22	5	3	-	1		
Total	**56**	**147**	**30**	**40**	**8**	**1**	**176**	**458**

(b) Research

As in previous years Research Services personnel have prepared a number of publications containing pupil-teacher ratios, insured employee benefits, retirement gratuities, and compensation statistics. (see Appendix A)

Two staff-researched publications were of major significance this year. The first (an in-depth analysis of the fact finding process) entitled, "Fact Finding, 1982-83: Issues and Recommendations" places the fact finding process in a provincial perspective in terms of the predominant issues at the local level and the range of recommendations related to these issues by fact finders.

The second publication deals with Final Offer Selection. This is a method of dispute resolution which is offered to the parties under the ***School Boards and Teachers Collective Negotiations Act R.S.O. 1980,*** and which is unique in labour legislation in Canada. The publication, is entitled "Final Offer Selection: A Summary Analysis of the Experience and Decisions under the School Boards and Teachers Collective Negotiations Act, 1975-76 to 1982-83".

The ***Provincial Overview,*** is a bi-monthly publication published by the Commission during the school year. It contains negotiation updates from settlements in the elementary, secondary and R.C.S.S. panels. In response to suggestions from the parties, it has been expanded from six to eight pages in order to provide more flexibility in reporting details of settlement data. It also has been used to report topics related to the bargaining process in education.

The analysis of the bargaining process in Ontario education in terms of negotiation length, number of third party appointments and stages of the Act utilized in the bargaining process was not conducted during the reporting year due to the "control year" provisions of the ***Inflation Restraint Act.*** This on-going study which was initiated four years ago will be updated during the 1984-85 bargaining year.

Research Services invited interested trustee, teacher and administration groups across the province to meet and discuss the information resources of the Commission. To this end, 26 meetings were held during the reporting year. The response from all parties to this request has been significant and clearly indicates the need to inform personnel new to bargaining in the education sector of the Commission's data resources.

A representative of the Commission attended the 25th annual meeting of the Statistics and Research Committee of the Canadian Association of Administrators of Labour Legislation (CAALL). This provided a valuable opportunity to share experiences with and learn from others involved in similar activities across the country.

Table 3 Number of Requests for Publications, Month and Party, 1983-84

	Local Teacher	Local Board	ERC Appointee	Provincial Teacher	Provincial Trustee	Media	Other	Total
1983								
Sept.	14	16	1	1	–	2	20	54
Oct.	5	6	–	2	–	–	13	26
Nov.	7	8	–	1	–	–	26	42
Dec.	10	5	1	–	–	–	13	29
1984								
Jan.	14	20	–	4	1	1	23	63
Feb.	20	17	1	2	1	–	35	76
Mar.	13	3	2	1	–	–	37	56
April	21	21	–	4	–	–	55	101
May	9	11	1	1	–	–	59	81
June	8	8	–	1	–	–	59	76
July	3	5	–	1	–	–	14	23
Aug.	1	3	–	1	–	–	14	19
Total	**125**	**123**	**6**	**19**	**2**	**3**	**388**	**646**

V NEGOTIATIONS 1983-84

1. The Parties

The parties to negotiations are the 2,200 trustees and the 106,000 teachers who represent and work in the approximately 200 school boards in the province. In general terms, there are two kinds of school boards. The Boards of Education (76) are divided into elementary and secondary panels. The Roman Catholic Separate School Boards (48) provide Catholic education in the province. In many cases, these Boards are geographically different from each other. A second difference is illustrated by the fact that the R.C.S.S. Boards do not have a secondary panel. Provincial funding for the R.C.S.S. Boards is provided to grade 10 only. Such Boards offering grades 11, 12 and 13 are actually operating private schools.*

Both the trustees and the teachers are organized in a group of organizations under a parent body. For the teachers, the parent body is the Ontario Teachers' Federation (OTF). This organization is made up of representatives of:

1. The Federation of Women Teachers' Associations of Ontario (FWTAO);

2. The Ontario Public School Teachers' Federation (OPSTF);**

2. The Ontario Secondary School Teachers' Federation (OSSTF);

4. The Ontario English Catholic Teachers' Association (OECTA);

5. L'Association des enseignants franco-ontariens (AEFO).

Bargaining rights reside with the branch affiliates of the above bodies.

The trustee parent organization is the Ontario School Trustees' Council (OSTC) which is composed of representatives from:

1. The Association of Large School Boards of Ontario (ALSBO);

2. The Ontario Public School Trustees' Association (OPSTA);

3. The Ontario Separate School Trustees' Association (OSSTA);

4. L'Association francaise des conseils scolaires de l'Ontario (AFCSO);

5. The Northern Ontario Public and Secondary School Trustees' Association (NOPSSTA).

*This, however, will no longer be the case. In June 1984 the Premier announced the extension of funding to Secondary Schools in RCSS boards.

**Changed from Ontario Public School Men Teachers' Federation at annual conference in August, 1982. (OPSMTF)

During 1983-84, approximately 80,000 Ontario teachers negotiated the terms and conditions of their employment. The number of school boards and the branch affiliates, by type, and the number of teachers employed by those boards are summarized in Table 4.

Table 4 School Boards, Branch Affiliates, and Teachers in Ontario 1983-84

Board Classification	Number of Boards	Number of Branch Affiliates				
		FWTAO	OPSTF	OECTA	AEFO	OSSTF
Boards of Education	76*	76	76	–	25	76
Metro. Toronto School Board*	1	1	1	–	–	–
County and District Combined Roman Catholic Separate School Boards	48	–	–	47	40	–
Other Public School Boards	42	4	7	–	–	–
Other Separate School Boards	13	1	1	5	4	–
Secondary School Boards	1	–	–	–	–	1
Boards on Crown Lands, Hospital and Hydro Centres and the Provincial Schools Authority	23	8	8	–	4	2
Total	**204**	**90**	**93**	**52**	**73**	**79**
Number of Teachers	**106,046**	**30,247**	**14,613**	**20,420**	**5,354**	**35,412**

* The Metropolitan Toronto School Board, which operates schools for the trainable retarded, does not operate elementary and secondary schools as such; however, its teachers are members of the elementary school branch affiliates, FWTAO and OPSTF

2. Renewals under the Act

It should be noted that the number of negotiations during any given year will vary because of the existence of multi-year agreements. That is, not every agreement comes up for renewal every year. From the 204 school boards and 387 branch affiliates, referred to in Table 4, 178 situations were subject to negotiations.

Table 5 Status of Negotiations, 1983-84

Board Classification	Not Subject to Negotiation*	Subject to Negotiation
Boards of Education – Elementary	20	56
Boards of Education – Secondary	16	60
County and District Combined Roman Catholic Separate School Boards	8	40
Other School Boards	2	22
Total	**46**	**178**

* Concluded a multi-year settlement during a previous year.

3. Duration of Agreements

Table 6 provides a breakdown of the duration and termination dates of settlement reached *during* 1983-84.

Table 6 **Duration and Termination of Settlements Concluded in 1983-84***

Board Classification	Not Settled*	1 Year Aug. 31/84	2 Years Aug. 31/85
Boards of Education – Elementary	7	49	—
Boards of Education –Secondary	22	38	—
County and District Combined Roman Catholic Separate School Boards	5	34	1
Other School Boards	4	18	—
Total	**38**	**134**	**1**

* Based on the assumption that collective agreements are ***not*** extended by the Inflation Restraint Act.

One of the significant developments over the past four years has been the number of ***multi-year*** agreements negotiated by the parties. However, with the introduction of the ***Inflation Restraint Act*** this trend came to an end — although there were 46 multi-year agreements negotiated during 1982-83. Many parties interpreted Section 13 of the ***Inflation Restraint Act*** to mean that collective agreements had automatically been renewed, and therefore there was nothing to negotiate. The Commission, as explained in its determination concerning the Durham Board of Education, did not agree with this interpretation. As a result it is not clear just what constitutes a settlement.

Table 7 presents the number of multi-year agreements reached during each year since the inception of the Act. A clear trend toward multi-year agreements began in the 1978-79 reporting year and continued through 1981-82.

Only one multi-year agreement was concluded during the reporting year, largely due to the impact of the Inflation Restraint Act. The importance of multi-year agreements cannot be overemphasized. They introduce a measure of stability in teacher/school board relationships and bargaining, and generally reduce the number of third party appointments by the ERC.

Table 7 Term of Agreements, 1975-76 to 1983-84

Term of Agreement		1975-76		1976-77		1977-78		1978-79		1979-80		1980-81		1981-82		1982-83		1983-84	
		No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Elementary:	Agreements on File	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	76	100.0	69***	100.00
Term:	8 Months	8	10.5	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	—	0.0
	1 Year	56	73.7	63	82.9	68	89.5	57	75.0	30	39.5	18	23.7	35	46.1	40	52.6	49	71.0
	1st Yr. of Multi-Yr.	8	10.5	1	1.3	6	7.9	13	17.1	33	43.4	25	32.9	15	19.7	20	26.3	—	0.0
	20 Months	4	5.3	4	5.3	1	1.3	–	0.0	–	0.0	–	0.0	–	0.0	–	–	—	0.0
	2nd or 3rd Yr. of Multi-Yr.	–	0.0	8	10.5	1	1.3	6	7.9	13	17.1	33	43.1	26	34.2	16	21.1	20	29.0
Secondary:	Agreements on File	76	100.0	76	100.0	76*	100.0	76	100.0	76	100.0	76	100.0	76	100.0	67**	100.0	54***	100.0
Term:	8 Months	5	6.6	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	—	—
	1 Year	53	69.7	56	73.7	70	93.3	53	69.7	25	32.9	22	28.9	34	44.7	35	52.2	38	70.4
	1st Yr. of Multi-Yr.	10	13.2	3	3.9	1	1.3	22	28.9	29	38.1	23	30.3	17	22.4	14	22.4	—	—
	20 Months	7	9.2	7	9.2	1	1.3	–	0.0	–	0.0	–	0.0	–	0.0	–	0	—	—
	2nd or 3rd Yr. of Multi-Yr.	1	1.3	10	13.2	3	4.0	1	1.3	22	28.9	31	40.8	25	32.9	17	25.4	16	29.6
R.C.S.S.:	Agreements on File	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0	48	100.0	48***	100.0	43***	100.0
Term:	8 Months	11	22.9	-	0.0	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	-	0.0	—	0.0
	1 Year	27	56.3	38	79.2	41	85.4	38	79.2	17	35.4	12	25.0	23	47.9	27	56.3	34	79.1
	1st Yr. of Multi-Yr.	3	6.3	3	4.2	4	8.3	6	12.5	25	52.1	11	22.0	14	29.2	8	16.7	1	2.3
	20 Months	6	12.5	5	10.4	1	2.1	–	0.0	–	0.0	–	0.0	–	0.0	-	0.0	—	—
	2nd or 3rd Yr. of Multi-Yr.	1	2.1	3	6.3	2	4.2	4	8.3	6	12.5	25	52.0	11	22.9	13	27.0	8	18.6
Total:	Agreements on File	200	100.0	200	100.0	199	100.0	200	100.0	200	100.0	200	100.0	199	100.0	191	100.0	166	100.0
Term:	8 Months	24	12.0	–	0.0	–	0.0	-	0.0	–	0.0	-	0.0	–	0.0	-	0.0	—	—
	1 Year	136	68.0	157	78.5	179	89.9	148	74.0	72	36.0	52	26.5	92	45.8	102	53.4	121	72.9
	1st Yr. of Multi-Yr.	21	10.5	6	3.0	11	5.5	41	20.5	87	43.5	59	29.0	46	23.1	43	22.5	1	0.6
	20 Months	17	8.5	16	8.0	3	1.5	–	0.0	–	0.0	–	0.0	–	0.0	–	0.0	—	—
	2nd or 3rd Yr. of Multi-Yr.	2	1.0	21	10.5	6	3.0	11	5.5	41	20.5	89	44.0	52	26.1	46	24.1	44	26.5

*Windsor Secondary did not have a collective agreement in effect during 1977-78.

**Not settled for 1982-83:

Secondary — Bruce, East York, Etobicoke, North York, Ottawa, Renfrew, Scarborough, Sudbury, York City.

***Not settled for 1983-84:

Elementary — Durham, Kirkland Lake, Lennox & Addington, Peel, Peterborough, Toronto, Wentworth.

Secondary — Bruce, Central Algoma, East York, Etobicoke, Haldimand, Huron, Kapuskasing, Kenora, Kent, Lennox & Addington, Lincoln, North York, Ottawa, Peel, Perth, Peterborough, Prince Edward, Renfrew, Scarborough, Timmins, Toronto, York City.

R.C.S.S. — Ottawa, Peterborough, Sudbury, Welland, York Region.

4. Persons Appointed to Assist - Mediators

Mediators, or "persons to assist" as they are referred to under section 13 of the Act, can be appointed at any time, either at the direction of the Commission or, with Commission concurrence, at the request of one or both parties.

As a consequence of the ***Inflation Restraint Act***, only five mediators were appointed during the 1983-84 negotiating year (see table 8). Each appointment was made in response to a joint request from the parties. The results are shown in Table 9.

Table 8 Assignment of Mediators, 1983-84

Board Classification	Situations Negotiating 1983-84	No Med.	Med. Only	Med. Pre F.F. Only	Med. Post F.F. Only	Med. Pre/ Post F.F.
Boards of Education – Elementary	56	56	-	-	-	-
Boards of Education – Secondary	60	56	4	-	-	-
County and District Combined Roman Catholic Separate School Boards	40	39	1	-	-	-
Other School Boards	22	22	-	-	-	-
Total	**178**	**173**	**5**	**0**	**0**	**0**

Table 9 Mediation, 1983-84

Jurisdiction	Mediator	Outcome
Elementary		
Secondary		
Central Algoma	Mac Stockton	— clarified positions isolated main issue
East Parry Sound	Eric Runacres	— Settlement
Lennox & Addington	Mac Stockton	— reduction in outstanding issues
Northumberland -Newcastle	Doug Belch	— Settlement
R.C.S.S.		
Kapuskasing	Bill Marcotte	— Settlement

5. Fact Finding

Fact finding affords an opportunity for the parties to clarify and narrow the differences which exist between them in order to reach a settlement when the collective agreement expires. The process becomes mandatory once August 31 has passed (the contract expiry date in all teacher/school board collective agreements). Further, it is a necessary procedure under the Act before teachers can take strike action or before a school board can initiate a lock-out. The fact finding process also recognizes the public's right to know the substantive and procedural issues of a dispute as well as each party's position prior to any possible interruption to the normal school program.

The Commission may appoint a fact finder at any time during negotiations either upon the request of one or both parties or if the Commission deems that the parties are at an impasse and would benefit from such assistance. The fact finder, a third party neutral, investigates the particular local situation and then files a written report with the Commission. A time limit of thirty days is established in the Act for the fact finder to meet with the parties, examine their written submissions, listen to oral arguments, write the report and submit it to the Commission. The Commission, in turn, immediately delivers the report to the parties.

The report must set out those matters upon which the parties have agreed as well as those upon which they have not agreed. A fact finder may make recommendations regarding any matter which he or she feels is relevant and on any of the items in dispute. The fact finder's recommedations, while not binding upon the parties, often narrow their differences, or are accepted by the parties in whole or in part.

Once the parties receive the report, they have a 15-day period in which to reach a settlement before the report is made public. If an agreement is not negotiated during this time, the report must be made public by the Commission. Should the parties reach settlement at any time during the fact finding, the process is automatically terminated.

It is clear from experience in the first seven years since the passage of the Act that fact finding has the potential to assist and, in many cases, actually has assisted the parties in reaching negotiated settlements. To date, the Commission and the parties have generally found it to be a useful process which has worked reasonably well. At the same time, there were observations made before the Matthews Commission that not only were negotiations far too long but also that in some cases fact finding had contributed to the delay. There were also submissions that fact finding in some instances was ineffective and perhaps over-utilized by some of the parties.

Under any labour legislation (including Bill 100), there is a very real danger that a process such as fact finding will be ignored or misused by the parties, thereby weakening the philosophical thrust of the Act and undermining its effectiveness. As a consequence, the Commission has encouraged the parties to utilize fact finding only if absolutely necessary. The preference, wherever possible, is to settle prior to the point when, under the Act, the Commission must appoint a fact finder. Second, the Commission has attempted to strengthen the fact finding process by trying to convey to the parties and to its third party neutrals that if a settlement cannot be reached without fact finding, the ensuing process should be one out of which a meaningful fact finder's report will emerge. This report would clearly and concisely address the issues in dispute and, if at all possible, present to the parties at least the broad outlines of a settlement. Finally, during the past few years, the Commission has recruited and appointed individuals with extremely high qualifications and experience in labour-management and/or teacher/school board relations; individuals who also have the expertise to write outstanding and effective fact finding reports.

Table 10, however, reveals that there were no fact finding appointments during the 1983-84 bargaining year. This was not due to voluntary dispute resolution by the parties but instead was due to the "control year" conditions of the ***Inflation Restraint Act*** and the protracted progress of the Durham Determination through the courts. Because of the hiatus in bargaining one of the dangers now facing collective bargaining in Ontario education is that, in future negotiation rounds, third parties will be over utilized by the parties. In many jurisdictions the parties have not had meaningful negotiations for two years and therefore 1984-85 negotiations are likely to be contentious and lengthy.

Table 10 Fact Finder Appointments, Reports Released to Parties and Reports Made Public, 1983-84

Board Classification	Fact Finder Appointments	Reports Released To Parties	Reports Made Public
Boards of Education – Elementary	—	—	—
Boards of Education – Secondary	—	—	—
County and District Combined Roman Catholic Separate School Boards	—	—	—
Other School Boards	—	—	—
Total	**0**	**0**	**0**

6. Strikes, Lock-outs and School Closings

Out of the 178 sets of negotiations referred to in Table 5, none experienced teacher sanctions.

A complete record of sanctions since the passage of the Act is included in Appendix B.

7. Voluntary Binding Arbitration/Final Offer Selection

At any time during negotiations, the parties can mutually agree to choose one of two options of third party resolution: voluntary binding arbitration or final offer selection. If a negotiated settlement is reached at any time during these procedures, the process is automatically terminated. Neither option of third-party resolution was utilized by the parties during the reporting year.

Table 11 Agreements Reached by Voluntary Binding Arbitration or Final Offer Selection, 1983-84

Board Classification	Agreements Reached by Voluntary Binding Arbitration	Agreements Reached by Final Offer Selection
Boards of Education – Elementary	–	–
Boards of Education – Secondary	–	–
County and District Combined Roman Catholic Separate School Boards	–	–
Other School Boards	–	–
Total	**0**	**0**

(a) Voluntary Binding Arbitration

Under the voluntary binding arbitration procedure, the parties may refer all matters remaining in dispute to either an arbitrator of a board of arbitration. Within 7 days of the appointment of the arbitrator or chairman of the arbitration board each party must submit to the other party and to the arbitrator/chairman, written notice of all matters agreed upon during negotiations and all matters remaining in dispute. The arbitrator or board of arbitration is responsible for determining procedures which give both parties full opportunity to present their evidence and make their submissions.

Within 60 days of the appointment of the arbitrator/chairman, or such longer period of time as the two parties may agree to, the arbitrator or board of arbitration must provide the parties with a written report of his/its decision. The decision of the arbitrator or board of arbitration is final and binding and the parties are required, within 30 days following receipt, to incorporate within a signed agreement the matters agreed to in negotiations and the decision rendered through arbitration.

(b) Final Offer Selection

Under this resolution procedure, each party's final position concerning the items remaining in dispute, together with any supporting evidence, is presented to a selector and the other party within 15 days of appointment of the selector. The parties may then provide written responses to the other party's position and the selector may hold a hearing.

Within 15 days of the hearing (or notice from the parties to dispense with the hearing), the selector must choose one party's final offer in its entirety. This offer is then incorporated into an agreement which also includes those items agreed to by the parties during negotiations.

8. Grievance Arbitration

Grievance procedure clauses in some collective agreements specify that the Commission be asked to appoint a single arbitrator or chairman of an arbitration board to resolve a ***grievance*** as the final and binding step of the procedure.

During 1983-84, the Commission made 7 such appointments, 3 were chairmen of arbitration boards, and 4 were single arbitrators. The Commission made 3 appointments the previous year, two for chairmen of arbitration boards, and one for a single arbitrator.

Table 12 Appointments Concerning Grievance Arbitration, 1983-84

Board Classification	Number of Appointments By ERC	Nature of Appointments
Boards of Education – Elementary	0	
Boards of Education – Secondary	5	3 Chairmen 2 Single Arbitrator
County and District Combined Roman Catholic Separate School Boards	2	2 Single Arbitrator
Other School Boards	-	–
Total	**7**	

9. Supervised Votes: Last Offer, Strike and Ratification

Prior to any strike activity, the teachers must first request (in writing) the Board's last offer concerning all matters agreed upon and all matters remaining in dispute. A secret ballot vote on the board's last offer must then be conducted under the Commission's supervision. If the teachers reject this offer, a second secret ballot vote to determine whether the teachers favour a strike may then be held, again under the supervision of the Commission.

As indicated in Table 13, the Commission was not called on to supervise any votes during the 1983-84 bargaining year.

Table 13 Board's Last Offer, Strike and Ratification Votes, 1975-76 to 1983-84

Vote	1975-76	1976-77	1977-78	1978-79	1979-80	1980-81	1981-82	1982-83	1983-84	Total
Board's Last Offer Votes										
Elementary	–	–	2	1	1	–	–	–	–	
Seondary	15	5	8	9	12	1	7[1]	4	–	
R.C.S.S.	–	5	5	3	12	3	5[4]	–	–	
Other	–	–	–	1	1	1	–	–	–	
Total	**15**	**10**	**15**	**14**	**26**	**5**	**12**	**4**	–	**101**
Strike Votes										
Elementary	–	–	1	1	1	–	–	–	–	
Secondary	15	4	7	4	9	1	5[1,2]	1	–	
R.C.S.S.	–	1	4	2	7	2	5[4]	–	–	
Other	–	–	–	1	1	–	–	–	–	
Total	**15**	**5**	**12**	**8**	**18**	**3**	**10**	**1**	–	**72**
Ratification Votes										
Elementary	–	–	–	–	2	–	–	–	–	
Secondary	–	1	5	2	4	2	3[3]	–	–	
R.C.S.S.	–	–	1	–	2	1	2[4]	–	–	
Other	–	–	–	–	–	–	–	–	–	**25**
Total	**–**	**1**	**6**	**2**	**8**	**3**	**5**	**–**	–	**198**

Note: Boards of Education within Metropolitan Toronto counted individually.

[1]Includes separate votes conducted by O.S.S.T.F. and A.E.F.O. in Simcoe.

[2]Includes vote taken in Northumberland and Newcastle, but not counted as Branch Affiliate, in supervised vote, voted to accept the last offer received from the school board.

[3]Includes two (2) votes in West Parry Sound as first vote resulted in rejection.

[4]Includes separate votes conducted by O.E.C.T.A. and A.E.F.O. in Carleton R.C.S.S.

10. Determination of Good Faith Bargaining

Seven complaints of failure to bargain in good faith were filed with the Commission during 1983-84 and one has been resolved as indicated in Table 14. The remaining charges stem from the conflicting interpretation of Bill 179 and its effect on Bill 100. Therefore, hearings with respect to these charges will not be held until the legal proceedings are settled in the courts. (See Page 3)

Table 14 Good Faith Bargaining Charges, 1983-84

Complainant	Respondent	Disposition
Branch Affiliate of O.S.S.T.F.*	Muskoka Board of Education	Withdrawn
Branch Affiliate of O.S.S.T.F.* (2 complaints filed)	Durham Board of Education	Ruling on Preliminary objection
Branch Affiliate of O.S.S.T.F.*	Board of Education for the Borough of East York	Pending
Branch Affiliate of O.S.S.T.F.* (2 complaints)	Bruce County Board	Pending
Branch Affiliate of O.S.S.T.F.*	Red Lake Board of Education	Pending
Branch Affiliate of O.S.S.T.F.*	Kent County Board of Education	Pending
Branch Affiliates of F.W.T.A.O. and O.P.S.T.F.	Sault Ste. Marie Board of Education	Pending
Branch Affiliates of O.S.S.T.F. and A.E.F.O.	Ottawa Board of Education	Pending
Branch Affiliates of F.W.T.A.O., O.P.S.T.F. and A.E.F.O.	Simcoe County Board of Education	Withdrawn

*Initiated during the previous year

11. Advisements

During the 1983-84 bargaining year the Commission did not issue any advisements, concerning its obligation to advise the Lieutenant Governor in Council when in its opinion the continuation of a strike, lockout, or closing of schools would place in jeopardy the successful completion of courses of study by students.

APPENDIX A PUBLICATIONS ISSUED DURING 1983-84

Teacher Board Collective Agreements: Individual Summaries

A Provincial Overview

Grievance Arbitration: Summaries of arbitration decisions arising out of differences between the parties under the ***School Boards and Teacher's Collective Negotiations Act.***

Teacher Placement: Grid Distributions of Ontario Teachers, Total Staff and Enrolment, January 31, 1984.

Monograph Series:

No. 33: Compensation Statistics, 1982-83

No. 34: Salary Relativities, 1975-76 to 1983-84

No. 35: Pupil Teacher Ratios, 1976-83

No. 36: Final Offer Selection: A Summary Analysis of the Experience and Decisions under the School Boards and Teachers Collective Negotiations Act, 1975-76 to 1982-83

No. 37: Insured Benefits and Retirement Gratuities, 1983-84

Clause File Series:

No. 24: Surplus/Redundancy Provisions related to Positions of Responsibility, 1981-82

No. 25: Early Retirement Incentive Plans, 1982-83

Other Publications:

Fact Finding, 1982-83: Issues and Recommendations.

The Sudbury School Strike and Laurentian Students

APPENDIX B SANCTION RECORD

SANCTION RECORD, 1975-76 to 1983-84

Year/ School Board	Total Sanction Days	Total sanction Days Excluding Work-to-rule
1975-76 Secondary (6):*		
**Central Algoma	35	35
Kent County	66.5	13.5
**Kirkland Lake	44	44
**Metro Toronto	38	38
**Sault Ste. Marie	46	13
**Windsor	27	26
Year Average	42.7 (40.8)***	28.2 (32.7)***
1976-77 Secondary (2):		
Peel	44	0
Stor., Dundas, Glengarry	24	24
Year Average	34.0	12.0
R.C.S.S. (1):		
Durham	9	9
Year Average	9.0	9.0
1977-78 Secondary (5):		
Essex	16	16
Huron	31	31
Perth	41	0
**Renfrew	73	44
Wentworth	49	16
Year Average	42.0	21.4
R.C.S.S. (1):		
Essex	34	34
Year Average	34.0	34.0
1978-79 Secondary (3):		
Haldimand	36	36
Kirkland Lake	30	26
York County	5	2
Year Average	23.7	21.3
1979-80 Elementary (2):		
Brant	22	22
Peel	14	13
Year Average	18.0	17.5
Secondary (3):		
Lambton	39	39
North York	40	0
**Sudbury	56	56
Year Average	45.0	31.7
R.C.S.S. (2):		
Frontenac	14	14
Nipissing	18	18
Year Average	16.0	16.0
1980-81 Secondary (3):		
Bruce	40	38
Leeds and Grenville	30	30
Norfolk	48	47
Year Average	39.3	38.3
R.C.S.S. (1):		
Essex	9	9
Year Average	9.0	9.0
1981-82 Secondary (2):		
Leeds and Grenville	0	0
West Parry Sound	51	51
Year Average	25.5	25.5
R.C.S.S. (2):		
Carleton (OECTA)	19	19
Carleton (AEFO)	11	11
Year Average	15.0	15.0
1982-83 Secondary (1):		
Oxford County	7	1
Year Average	7.0	1.0
1983-84 (0)	0	0

* 11 sanctions if Metro = 6.
** An advisement was made pursuant to section 80(1)(h).
*** Average if Metro = 6.

APPENDIX C STATEMENT OF EXPENDITURES, APRIL 1, 1983 — MARCH 31, 1984

Categories		Budget Allocation $		Actual Expenditures $
Salaries and Wages		**538,000**		**522,141**
Employee Benefits		**79,900**		**66,719**
Transportation and Communication		**140,400**		**120,697**
Communications	18,000		10,453	
Mailing	15,600		19,579	
Freight	-		161	
Relocation Expenses	0		2,362	
Travel-Public Servants	41,800		32,357	
Travel-Others	65,000		55,785	
Services		**317,400**		**300,055**
Advertising - Print, Design	38,500		91,756	
Rental Services	8,800		6,332	
Data Processing	22,000		40,624	
Housekeeping	2,000		1,234	
Conference Expenses	30,000		23,964	
Commissioners	30,000		26,535	
Professional Services	143,600		97,346	
Purchasing, Repairs	2,500		3,886	
Special Services	40,000		8,378	
Supplies		**42,200**		**45,198**
Data Processing Equip./Supplies	25,000		29,159	
Office Furniture	2,000		1,624	
Veh. Components, Hardware	0		2	
Office Equipment	2,000		2,047	
Lab. Equip./Drugs	0		0	
Utilities, Other Supplies	500		1	
Office Supplies	7,700		7,961	
Books/Publications	5,000		4,404	
Total		**1,117,900**		**1,054,810**

APPENDIX D SUMMARY OF NEGOTIATIONS, 1983-84

Negotiations conducted in accordance with the Act	
Total Number of Negotiations Conducted by Boards and Teachers in Ontario	178
Number of Negotiations Not Requiring Formal Commission Assistance	173
Number of Fact Finders Assigned	0
Number of Situations where Mediator Assigned	5
Settlements by Voluntary Binding Arbitration	0
Settlements by Voluntary Final Offer Selection	0